

## 21 C.J.S. Courts § 22

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### Courts

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## II. Jurisdiction of Courts

### C. Jurisdiction of Subject Matter or Cause of Action

#### 1. General Considerations

### § 22. Effect of pleadings on subject matter jurisdiction

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, [Courts](#)  4 to 13, 21

**Pleadings are necessary to place issues before the courts for the exercise of the courts' subject matter jurisdiction but pleadings do not create, bestow, or limit the courts' subject matter jurisdiction.**

Pleadings are necessary to place issues before the courts for the exercise of the courts' subject matter jurisdiction,<sup>1</sup> without which the courts' jurisdiction lies dormant,<sup>2</sup> and while the pleadings must show the courts' jurisdiction,<sup>3</sup> pleadings cannot bestow or limit the subject matter jurisdiction of the courts.<sup>4</sup> The courts' jurisdiction does not depend on the sufficiency of the allegations in a pleading,<sup>5</sup> technical pleading requirements,<sup>6</sup> terms of art<sup>7</sup> or labels used in a pleading,<sup>8</sup> and the fact that a complaint fails to state a cause of action does not affect the jurisdiction of the court.<sup>9</sup> Substance, not form, is determinative.<sup>10</sup>

A "facial challenge" to a court's subject matter jurisdiction asserts that the complaint fails to allege facts that show that the court has power to hear the case while a "factual challenge" denies that the court actually has jurisdiction as a matter of fact even though the complaint alleges facts tending to show jurisdiction.<sup>11</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Vermont-chartered risk retention group's claims, that Secretary of the Wisconsin Department of Safety and Professional Services (WDSPS) violated group's due process and equal protection rights by its new interpretation of statute governing requirements for certificate of financial responsibility applicants, were not so frivolous as to deprive District Court of subject matter jurisdiction over such claims, following dismissal of such claims; room for debate existed as to whether decision to treat non-Wisconsin-licensed risk retention groups differently from Wisconsin-licensed risk retention groups was rationally related to legitimate state interest. [U.S. Const. Amend. 5](#); [Wis. Stat. Ann. § 101.654\(2\)\(a\)](#). [Restoration Risk Retention Group, Inc. v. Gutierrez](#), 880 F.3d 339 (7th Cir. 2018).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [Fla.—Lucky Nation, LLC v. Al-Maghazchi](#), 186 So. 3d 12 (Fla. 4th DCA 2016).  
[Mich.—Clohset v. No Name Corp.](#), 302 Mich. App. 550, 840 N.W.2d 375 (2013), appeal denied, 495 Mich. 990, 844 N.W.2d 725 (2014).  
[Mont.—LaPlante v. Town Pump, Inc.](#), 2012 MT 63, 364 Mont. 323, 274 P.3d 724 (2012).  
[Tenn.—Wells v. Chattanooga Bakery, Inc.](#), 448 S.W.3d 381 (Tenn. Ct. App. 2014).
- 2 [Wyo.—CSC Group Holdings, LLC v. Automation & Electronics, Inc.](#), 2016 WY 26, 368 P.3d 302 (Wyo. 2016).
- 3 [Colo.—Currier v. Sutherland](#), 215 P.3d 1155 (Colo. App. 2008), judgment aff'd, 218 P.3d 709 (Colo. 2009).  
[Conn.—Bartlett v. Metropolitan Dist. Com'n](#), 125 Conn. App. 149, 7 A.3d 414 (2010).  
[Fla.—Wendler v. City of St. Augustine](#), 108 So. 3d 1141 (Fla. 5th DCA 2013).

- Mich.—*Clohset v. No Name Corp.*, 302 Mich. App. 550, 840 N.W.2d 375 (2013), appeal denied, 495 Mich. 990, 844 N.W.2d 725 (2014).
- 4 Mont.—*LaPlante v. Town Pump, Inc.*, 2012 MT 63, 364 Mont. 323, 274 P.3d 724 (2012).
- 5 Fla.—*Faulk v. State, Dept. of Revenue*, 157 So. 3d 534 (Fla. 1st DCA 2015).
- Ill.—*People v. Vasquez*, 2013 IL App (2d) 120344, 373 Ill. Dec. 128, 993 N.E.2d 128 (App. Ct. 2d Dist. 2013), appeal denied, 378 Ill. Dec. 236, 3 N.E.3d 801 (Ill. 2014).
- Ind.—*Marion County Auditor v. State*, 33 N.E.3d 398 (Ind. Tax Ct. 2015).
- Wyo.—*Linch v. Linch*, 2015 WY 141, 361 P.3d 308 (Wyo. 2015).
- 6 S.D.—*March v. Thursby*, 2011 SD 73, 806 N.W.2d 239 (S.D. 2011).
- 7 Miss.—*Wiggins v. Perry*, 989 So. 2d 419 (Miss. Ct. App. 2008).
- 8 Minn.—*Giersdorf v. A & M Const., Inc.*, 820 N.W.2d 16 (Minn. 2012).
- 9 Ill.—*In re Luis R.*, 239 Ill. 2d 295, 346 Ill. Dec. 578, 941 N.E.2d 136 (2010).
- Ind.—*J.S. Marten, Inc. v. Indiana Dept. of State Revenue*, 45 N.E.3d 534 (Ind. Tax Ct. 2015).
- N.M.—*Flores v. Herrera*, 2015-NMCA-072, 352 P.3d 695 (N.M. Ct. App. 2015), cert. granted, 2015-NMCERT-006, 367 P.3d 852 (N.M. 2015).
- 10 Miss.—*Germany v. Germany*, 123 So. 3d 423 (Miss. 2013).
- 11 Tenn.—*Wells v. Chattanooga Bakery, Inc.*, 448 S.W.3d 381 (Tenn. Ct. App. 2014).